

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**BRIAN KELSEY and
JOSHUA SMITH,**

Defendants.

No. 3:21-cr-00264-1

**DEFENDANT BRIAN KELSEY’S
MOTION TO RESET SENTENCING HEARING**

Comes now the defendant, Brian Kelsey (the “Defendant”), by and through counsel, and respectfully moves this court for an order resetting the sentencing hearing in this case for a period of approximately thirty (30) days.

As grounds for this motion, Defendant states as follows:

1. The Defendant’s sentencing hearing is currently set for July 27, 2023.
2. Contemporaneous with this motion, undersigned counsel is filing a Motion for Substitution of Counsel. As explained therein, the substitution is necessary, at least in part, due to the deterioration of the attorney-client relationship and the potential of future litigation involving prior counsel.
3. Because undersigned counsel will be replacing all current counsel, Mr. Little and Mr. Lawson need additional time to review all relevant materials to prepare for sentencing. Undersigned counsel is aware of the age of this case and intends to work diligently to prepare and finalize the sentencing materials as quickly as possible. Because of obligations in other cases, including a federal criminal appeal with briefing due July 26 and a matter before the Tennessee

Supreme Court with briefing due July 29, counsel believes that a continuance of approximately 30 days is necessary and sufficient.

4. Undersigned counsel does not intend to file anything other than a sentencing memorandum and objections to the PSR prior to the reset sentencing hearing. There is one issue that might be raised as substantial mitigation in the sentencing memorandum, and this issue requires additional time to research and investigate. But, as stated above, counsel believes that this can be accomplished within 30 days.

5. For all these reasons, undersigned counsel requests that the Court reset the sentencing hearing in this matter to a date of not less than thirty (30) days from its current setting.

6. Counsel has consulted with the attorneys for the United States, and can represent that the Government opposes this motion. If the Court grants the motion, however, the Government has requested that I ask the Court not to set the hearing from August 29 to August 31, because multiple Government attorneys are expected to be unavailable during that window.

WHEREFORE, for the reasons detailed above, Defendant respectfully requests that the Court enter an order GRANTING his motion for an order resetting the sentencing hearing in this case for a period of not less than thirty (30) days.

Respectfully submitted,

/s/ J. Alex Little

J. Alex Little (TN BPR #29858)

Zachary C. Lawson (TN BPR #36092)

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been electronically delivered via the Court's electronic filing system on this the 12th day of July 2023 to:

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/s/ J. Alex Little
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